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 UNITED STATES OF AMERICA

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

UNITED STATES OF AMERICA,	)	CR. No. 01-00034 DAE
	)	
Plaintiff,	)	SUPERSEDING INDICTMENT
	)	
vs.	)	[18 U.S.C. §§ 371 and 2
	)	26 U.S.C. §§ 7201, 7206(1),
VICTOR H. ZUERCHER, JR., (01)	)	and 7206(2)]
PETER PAUL VIRDONE, (02)	)	
	)	
Defendants.	)	
	)	

SUPERSEDING INDICTMENT

COUNT 1  
(18 U.S.C. § 371)

The Grand Jury charges:

I. INTRODUCTORY ALLEGATIONS

1. At all times material to this Superseding Indictment:
  - a) Defendant VICTOR H. ZUERCHER, JR., hereinafter defendant ZUERCHER, is a dentist, practicing in the State of Hawaii.
  - b) Defendant PETER PAUL VIRDONE, hereinafter defendant VIRDONE, is a licensed Certified Public Accountant (CPA) who owns and operates an accounting and tax return preparation business in Honolulu, Hawaii, doing business as Peter P. Virdone & Company.
  - c) In 1989, defendant ZUERCHER incorporated V.Z. Dental Clinic Inc. as his professional corporation from which he received a salary from 1989 to 1993.
  - d) On March 6, 1989, O.B. Inc. was incorporated in the State of Hawaii and through which defendant ZUERCHER purchased for \$300,000 and operated the Ala Moana Dental Group. The listed owner of O.B.

Inc. is defendant ZUERCHER's sister, a chiropractor who resides in the State of Kansas. The listed officer is defendant VIRDONE.

## II. THE CONSPIRACY

2. From on or about October 20, 1986, and continuing thereafter until a date not earlier than April 15, 2000, in the District of Hawaii and elsewhere, defendants ZUERCHER and VIRDONE, and others known and unknown to the Grand Jury, did unlawfully, willfully, and knowingly conspire, combine, confederate, and agree together and with each other, and with other individuals both known and unknown to the Grand Jury, to defraud the United States by dishonest and deceitful means for the purpose of impeding, impairing, obstructing and defeating the lawful functions of the United States Department of Treasury, Internal Revenue Service, in the ascertainment, computation, assessment and collection of income taxes.

## III. THE MANNER AND MEANS BY WHICH THE CONSPIRACY WAS CARRIED OUT

3. The dishonest and deceitful manner and means by which the conspiracy was sought to be accomplished included, among other things, the following:

a) Beginning on a precise date unknown to the Grand Jury, and continuing until approximately April 2000, defendants ZUERCHER and VIRDONE concealed from the United States Department of the Treasury, Internal Revenue Service, hereinafter IRS, and

from the State of Hawaii income received by defendant ZUERCHER and assets he owned by purchasing and operating a dental practice through a nominee corporation, O.B. Inc.

b) In order to further conceal income and assets during the years in issue, defendants ZUERCHER and VIRDONE caused the filing of false and fraudulent state and federal corporate income tax returns, individual income tax returns and information returns wherein defendant ZUERCHER's income was fraudulently reported as nontaxable loans and as salary to his son.

c) In order to further conceal income and assets during the years in issue, defendants ZUERCHER and VIRDONE caused false and fraudulent statements to be filed with an IRS collection officer wherein defendant ZUERCHER's income was substantially under reported and defendant ZUERCHER's ownership of O.B. Inc. was omitted.

d) In order to further conceal income and assets during the years in issue, defendant ZUERCHER diverted patient checks from O.B. Inc. which he cashed through his personal bank.

e) In order to further conceal income and assets during the years in issue, defendant ZUERCHER cashed O.B. Inc. payroll checks made payable to defendant ZUERCHER's son through an account held jointly by defendant ZUERCHER and his son.

IV. OVERT ACTS

4. In furtherance of the conspiracy, and to effect the object thereof, the following overt acts, among others, were committed in the District of Hawaii and elsewhere:

- a) On or about March 6, 1989, defendants ZUERCHER and VIRDONE caused to be created O.B. Inc., a nominee corporation listing defendant ZUERCHER's sister, a chiropractor as the sole shareholder and defendant VIRDONE as an officer, and through which defendant ZUERCHER purchased and operated a dental practice.
- b) In or about July 1989, defendants ZUERCHER and VIRDONE caused to be filed with the IRS a false statement, Forms 433-A and 433-B, Collection Information Statement for Individuals, in which defendant ZUERCHER failed to disclose that he owned and operated a dental practice in the name O.B. Inc., thereby hiding assets and income that the IRS could have garnished to collect defendant ZUERCHER's outstanding income tax liabilities for the calendar years 1985 and 1986.
- c) On or about August 13, 1991, defendant ZUERCHER caused to be filed with the IRS a false statement, Form 433-A, Collection Information Statement for Individuals, in which defendant ZUERCHER failed to

disclose that he owned and operated a dental practice in the name O.B. Inc., thereby hiding assets and income that the IRS could have garnished to collect defendant ZUERCHER's outstanding income tax liabilities for the calendar years 1985 and 1986.

- d) On or about September 4, 1991, defendants ZUERCHER and VIRDONE caused to be filed with the United States Bankruptcy Court a bankruptcy petition that omitted defendant ZUERCHER's income and assets in an attempt to evade levies issued by the IRS in the defendant's name, and to impede the IRS collection process.
- e) On or about September 20, 1992, defendants ZUERCHER and VIRDONE caused approximately \$25,590 of income received by defendant ZUERCHER from V.Z. Dental Inc. to be falsely reported as a loan to defendant ZUERCHER on Schedule L of the 1991 V.Z. Dental Clinic, Inc., Form 1120, U.S. Corporation and State of Hawaii Corporation Income Tax Returns.
- f) On or about October 17, 1992, defendants ZUERCHER and VIRDONE caused to be prepared and filed a false and fraudulent 1991 U.S. Individual Income

tax return, Form 1040, and State of Hawaii Individual Income Tax Return for defendant ZUERCHER, which omitted approximately \$25,590 of income received by defendant ZUERCHER from V.Z. Dental Clinic, Inc.

- g) On or about September 17, 1993, defendants ZUERCHER and VIRDONE caused approximately \$38,259 of income received by defendant ZUERCHER from V.Z. Dental Inc. to be falsely reported as a loan to defendant ZUERCHER on Schedule L of the 1992 V.Z. Dental Inc., Form 1120, U.S. Corporation and State of Hawaii Corporation Income Tax Returns.
- h) On or about June 15, 1993, defendants ZUERCHER and VIRDONE caused to be prepared and filed a false and fraudulent 1992 U.S. Individual Income Tax Return, Form 1040, and State of Hawaii Individual Income Tax Return for defendant ZUERCHER, which omitted approximately \$38,259 of income received by defendant ZUERCHER from V.Z. Dental Clinic, Inc.
- i) On or about September 18, 1994, defendants ZUERCHER and VIRDONE caused approximately \$11,309 of income received by defendant ZUERCHER from V.Z. Dental Inc. to be falsely reported as a loan to

defendant ZUERCHER on Schedule L, of the 1993 V.Z. Dental Inc., Form 1120, U.S. Corporation and State of Hawaii Corporation Income Tax Returns.

- j) In or about January 1994, defendants ZUERCHER and VIRDONE caused \$10,500 of income received by defendant ZUERCHER from O.B. Inc. to be falsely reported as a salary paid to defendant ZUERCHER's son on a 1993 Form W-2 for O.B. Inc. that was filed with the IRS.
- k) On or about April 15, 1994, defendants ZUERCHER and VIRDONE caused to be prepared and filed a 1993 U.S. Individual Income Tax Return, Form 1040, for defendant ZUERCHER'S son that falsely and fraudulently reported \$10,500 of income received by defendant ZUERCHER from O.B. Inc. as wages received by defendant ZUERCHER's son.
- l) On or about August 26, 1994, defendants ZUERCHER and VIRDONE caused to be prepared and filed a false and fraudulent 1993 U.S. Individual Income Tax Return, Form 1040, and State of Hawaii Individual Income Tax Return for defendant ZUERCHER which omitted approximately \$21,809 of income received by defendant ZUERCHER from V.Z. Dental Clinic, Inc. and O.B. Inc.

- m) In or about January 1995, defendants ZUERCHER and VIRDONE caused \$18,000 of income received by defendant ZUERCHER from O.B. Inc. to be falsely reported as a salary paid to defendant ZUERCHER's son on a 1994 Form W-2 for O.B. Inc. that was filed with the IRS.
- n) On February 10, 1995, defendant ZUERCHER caused to be filed with the IRS a false statement, Form 433-A, Collection Information Statement for Individuals, in which defendant ZUERCHER failed to disclose that he owned and operated a dental practice in the name O.B. Inc., thereby hiding assets and income that the IRS could have garnished to collect defendant ZUERCHER's outstanding income tax liabilities for the calendar years 1985, 1986, 1990 and 1993.
- o) On or about April 15, 1995, defendants ZUERCHER and VIRDONE caused to be prepared and filed a 1994 U.S. Individual Income Tax Return, Form 1040, for defendant ZUERCHER's son that falsely and fraudulently reported \$18,000 of income received by defendant ZUERCHER from O.B. Inc. as wages received by defendant ZUERCHER's son.

p) On or about April 15, 1995, defendants ZUERCHER and VIRDONE caused to be prepared and filed a false and fraudulent 1994 U.S. Individual Income Tax Return, Form 1040, and State of Hawaii Individual Income Tax Return for defendant ZUERCHER which omitted approximately \$36,640 of income received by defendant ZUERCHER from O.B. Inc.

q) On or about September 18, 1995, defendants ZUERCHER and VIRDONE caused approximately \$18,640 of income received by defendant ZUERCHER from O.B. Inc. to be falsely reported on Schedule L on the 1994 O.B. Inc., Form 1120, U.S. Corporation and State of Hawaii Corporation Income Tax Returns.

r) On or about November 22, 1995, defendant ZUERCHER joined a barter club, to conceal his sources of income from the IRS.

s) In or about January 1996, defendants ZUERCHER and VIRDONE caused \$18,000 of income received by defendant ZUERCHER from O.B. Inc. to be falsely reported as a salary paid to defendant ZUERCHER's son on a 1995 Form W-2 for O.B. Inc. that was filed with the IRS.

t) On or about April 15, 1996, defendants ZUERCHER and VIRDONE caused to be prepared and filed a 1995 U.S. Individual Income Tax Return, Form 1040, for defendant ZUERCHER'S son that falsely and fraudulently reported \$18,000 of income received by defendant ZUERCHER from O.B. Inc. as wages received by defendant ZUERCHER's son.

u) On or about September 30, 1996, defendants ZUERCHER and VIRDONE caused approximately \$13,500 of income received by defendant ZUERCHER from O.B. Inc. to be falsely reported on Schedule L, on the 1995 O.B. Inc., Form 1120, U.S. Corporation and State of Hawaii Corporation Income Tax Returns.

v) On or about April 15, 1996, defendants ZUERCHER and VIRDONE caused to be prepared and filed a false and fraudulent 1995 U.S. Individual Income Tax Return, Form 1040, and State of Hawaii Individual Income Tax Return for defendant ZUERCHER which omitted approximately \$31,500 of income received by defendant ZUERCHER from O.B. Inc.

w) On September 24, 1996, defendant ZUERCHER caused to be filed with the IRS false Form 433-A, Statement of Financial Condition and Other

Information, in which defendant ZUERCHER failed to disclose that he owned and operated a dental practice in the name O.B. Inc., thereby hiding assets and income that the IRS could have garnished to collect defendant ZUERCHER's outstanding income tax liabilities for the calendar years 1985, 1986, 1990, 1993, 1994 and 1995.

- x) On or about March 21, 1997, defendants ZUERCHER and VIRDONE caused approximately \$13,000 of income received by defendant ZUERCHER from O.B. Inc. to be falsely reported on Schedule L, on the 1996 O.B. Inc., Form 1120, U.S. Corporation and State of Hawaii Corporation Income Tax Return.
- y) On or about April 15, 1997, defendants ZUERCHER and VIRDONE caused to be prepared and filed a 1996 U.S. Individual Income Tax Return, Form 1040, for defendant ZUERCHER'S son that falsely and fraudulently reported \$18,000 of income received by defendant ZUERCHER from O.B. Inc. as wages received by defendant ZUERCHER's son.
- z) On or about April 15, 1997, defendants ZUERCHER and VIRDONE caused to be prepared and filed a false and fraudulent 1996 U.S. Individual Income

Tax Return, Form 1040, and State of Hawaii Individual Income Tax Return for defendant ZUERCHER which omitted approximately \$31,000 of income received by defendant ZUERCHER from O.B. Inc.

- aa) In or about January 1998, defendants ZUERCHER and VIRDONE caused \$24,000 of income received by defendant ZUERCHER from O.B. Inc. to be falsely reported as a salary paid to defendant ZUERCHER's son on a 1997 Form W-2 for O.B. Inc. that was filed with the IRS.
- bb) On or about April 15, 1998, defendants ZUERCHER and VIRDONE caused to be prepared and filed a 1997 U.S. Individual Income Tax Return, Form 1040, for defendant ZUERCHER'S son that falsely and fraudulently reported \$24,000 of income received by defendant ZUERCHER from O.B. Inc. as wages received by defendant ZUERCHER's son.
- cc) On or about October 19, 1998, defendants ZUERCHER and VIRDONE caused to be prepared and filed a false and fraudulent 1997 U.S. Individual Income Tax Return, Form 1040, and State of Hawaii Individual Income Tax Return for defendant

ZUERCHER which omitted \$24,000 of income received by defendant ZUERCHER from O.B. Inc.

- dd) In or about January 1999, defendants ZUERCHER and VIRDONE caused \$24,000 of income received by defendant ZUERCHER from O.B. Inc. to be falsely reported as a salary paid to defendant ZUERCHER's son on a 1998 Form W-2 for O.B. Inc. that was filed with the IRS.
- ee) On or about April 15, 1999, defendants ZUERCHER and VIRDONE caused to be prepared and filed a 1998 U.S. Individual Income Tax Return, Form 1040, for defendant ZUERCHER'S son that falsely and fraudulently reported \$24,000 of income received by defendant ZUERCHER from O.B. Inc. as wages received by defendant ZUERCHER's son.
- ff) On or about October 18, 1999, defendants ZUERCHER and VIRDONE caused to be prepared and filed a false and fraudulent 1998 U.S. Individual Income Tax Return, Form 1040, and State of Hawaii Individual Income Tax Return for defendant ZUERCHER which omitted \$24,000 of income received by defendant ZUERCHER from O.B. Inc.

gg) In or about January 2000, defendants ZUERCHER and VIRDONE caused \$24,000 of income received by defendant ZUERCHER from O.B. Inc. to be falsely reported as a salary paid to defendant ZUERCHER's son on a 1999 Form W-2 for O.B. Inc. that was filed with the IRS.

hh) On or about April 15, 2000, defendants ZUERCHER and VIRDONE caused to be prepared and filed a 1999 U.S. Individual Income Tax Return, Form 1040, for defendant ZUERCHER'S son that falsely and fraudulently reported \$24,000 of income received by defendant ZUERCHER from O.B. Inc. as wages received by defendant ZUERCHER's son.

ii) On or about April 15, 2000, defendants ZUERCHER and VIRDONE caused to be prepared and filed a false and fraudulent 1999 U.S. Individual Income Tax Return, Form 1040, and State of Hawaii Individual Income Tax Return for defendant ZUERCHER which omitted \$24,000 of income received by defendant ZUERCHER from O.B. Inc.

All in violation of Title 18, United States Code,

Section 371.

COUNT 2  
(26 U.S.C. § 7201 &  
18 U.S.C. § 2(a))

The Grand Jury further charges:

Paragraphs 1(a) through 1(d) of Count 1 of this Superseding Indictment are incorporated herein by reference as if fully set forth herein:

From on or about October 20, 1986, and continuing thereafter until a date not earlier than April 15, 2000, in the District of Hawaii, defendant ZUERCHER, aided and abetted by defendant VIRDONE, did willfully attempt to evade and defeat the payment of self-assessed income tax due and owing by defendant ZUERCHER of approximately \$55,559 to the United States of America for the calendar years 1985, 1986, 1990, 1993, 1994, 1995, 1996 and 1997, by concealing income and assets from the IRS, filing false and fraudulent corporate and individual income tax returns, falsifying corporate books and records, and by other means, including but not limited to:

- 1) On or about March 6, 1989, defendants ZUERCHER and VIRDONE caused to be created O.B. Inc., a nominee corporation listing defendant ZUERCHER's sister, a chiropractor as the sole shareholder and defendant VIRDONE as an officer, and through which defendant ZUERCHER purchased and operated a dental practice.

- 2) On or about July 31, 1989, defendants ZUERCHER and VIRDONE caused to be filed with the IRS a false statement, Form 433-A, Collection Information Statement for Individuals, in which defendant ZUERCHER failed to disclose that he owned and operated a dental practice in the name O.B. Inc., thereby hiding assets and income that the IRS could have garnished to collect defendant ZUERCHER's outstanding income tax liabilities for the calendar years 1985 and 1986.
- 3) On or about September 4, 1991, defendants ZUERCHER and VIRDONE caused to be filed with the United States Bankruptcy Court a bankruptcy petition that omitted defendant ZUERCHER's income and assets in an attempt to evade levies issued by the IRS in the defendant's name, and to impede the IRS collection process.
- 4) On or about September 20, 1992, defendants ZUERCHER and VIRDONE caused \$25,590 of income received by defendant ZUERCHER from V.Z. Dental Inc. to be falsely reported as a loan to defendant ZUERCHER on the 1991 V.Z. Dental Clinic, Inc., Form 1120, U.S. Corporation Income Tax Return.

- 5) On or about October 17, 1992, defendants ZUERCHER and VIRDONE caused to be prepared and filed a false and fraudulent 1991 U.S. Individual Income tax return, Form 1040, for defendant ZUERCHER which omitted \$25,590 of income received by defendant ZUERCHER from V.Z. Dental Clinic, Inc.
- 6) On or about September 17, 1993, defendants ZUERCHER and VIRDONE caused \$38,259 of income received by defendant ZUERCHER from V.Z. Dental Inc. to be falsely reported as a loan to defendant ZUERCHER on the 1992 V.Z. Dental Inc., Form 1120, U.S. Corporation Income Tax Return.
- 7) On or about June 15, 1993, defendants ZUERCHER and VIRDONE caused to be prepared and filed a false and fraudulent 1992 U.S. Individual Income Tax Return, Form 1040, for defendant ZUERCHER, which omitted \$38,259 of income received by defendant ZUERCHER from V.Z. Dental Clinic, Inc.
- 8) On or about September 18, 1994, defendants ZUERCHER and VIRDONE caused \$11,309 of income received by defendant ZUERCHER from V.Z. Dental Inc. to be falsely reported as a loan to defendant ZUERCHER on the 1993 V.Z. Dental Inc., Form 1120, U.S. Corporation Income Tax Return.

- 9) In or about January 1994, defendants ZUERCHER and VIRDONE caused \$10,500 of income received by defendant ZUERCHER from O.B. Inc. to be falsely reported as a salary paid to defendant ZUERCHER's son on a 1993 Form W-2 for O.B. Inc. that was filed with the IRS.
- 10) On or about April 15, 1994, defendants ZUERCHER and VIRDONE caused to be prepared and filed a 1993 U.S. Individual Income Tax Return, Form 1040, for defendant ZUERCHER'S son that falsely and fraudulently reported \$10,500 of income received by defendant ZUERCHER from O.B. Inc. as wages received by defendant ZUERCHER's son.
- 11) On or about August 26, 1994, defendants ZUERCHER and VIRDONE caused to be prepared and filed a false and fraudulent 1993 U.S. Individual Income Tax Return, Form 1040, for defendant ZUERCHER, which omitted \$21,809 of income received by defendant ZUERCHER from V.Z. Dental Clinic, Inc. and O.B. Inc.
- 12) In or about January 1995, defendants ZUERCHER and VIRDONE caused \$18,000 of income received by defendant ZUERCHER from O.B. Inc. to be falsely reported as a salary paid to defendant ZUERCHER's

son on a 1994 Form W-2 for O.B. Inc. that was filed with the IRS.

- 13) On February 10, 1995, defendant ZUERCHER caused to be filed with the IRS a false statement, Form 433-A, Collection Information Statement for Individuals, in which defendant ZUERCHER failed to disclose that he owned and operated a dental practice in the name O.B. Inc., thereby hiding assets and income that the IRS could have garnished to collect defendant ZUERCHER's income outstanding income tax liabilities for the calendar years 1985, 1986, 1990 and 1993.
- 14) On or about April 15, 1995, defendants ZUERCHER and VIRDONE caused to be prepared and filed a 1994 U.S. Individual Income Tax Return, Form 1040, for defendant ZUERCHER's son that falsely and fraudulently reported \$18,000 of income received by defendant ZUERCHER from O.B. Inc. as wages received by defendant ZUERCHER's son.
- 15) On or about April 15, 1995, defendants ZUERCHER and VIRDONE caused to be prepared and filed a false and fraudulent 1994 U.S. Individual Income Tax Return, Form 1040, for defendant ZUERCHER,

which omitted \$34,000 of income received by defendant ZUERCHER from O.B. Inc..

- 16) On or about September 18, 1995, defendants ZUERCHER and VIRDONE caused \$16,000 of income received by defendant ZUERCHER from O.B. Inc. to be falsely reported as a loan to defendant ZUERCHER's son on the 1994 O.B. Inc., Form 1120, U.S. Corporation Income Tax Return.
- 17) On or about November 22, 1995, defendant ZUERCHER joined a barter club, to conceal his sources of income from the IRS.
- 18) In or about January 1996, defendants ZUERCHER and VIRDONE caused \$18,000 of income received by defendant ZUERCHER from O.B. Inc. to be falsely reported as a salary paid to defendant ZUERCHER's son on a 1995 Form W-2 for O.B. Inc. that was filed with the IRS.
- 19) On or about April 15, 1996, defendants ZUERCHER and VIRDONE caused to be prepared and filed a 1995 U.S. Individual Income Tax Return, Form 1040, for defendant ZUERCHER'S son that falsely and fraudulently reported \$18,000 of income received by defendant ZUERCHER from O.B. Inc. as wages received by defendant ZUERCHER's son.

- 20) On or about April 15, 1996, defendants ZUERCHER and VIRDONE caused to be prepared and filed a false and fraudulent 1995 U.S. Individual Income Tax Return, Form 1040, for defendant ZUERCHER, which omitted \$31,500 of income received by defendant ZUERCHER from O.B. Inc.
- 21) On September 24, 1996, defendant ZUERCHER caused to be filed with the IRS false Form 433-A, Statement of Financial Condition and Other Information, in which defendant ZUERCHER failed to disclose that he owned and operated a dental practice in the name O.B. Inc., thereby hiding assets and income that the IRS could have garnished to collect defendant ZUERCHER's outstanding income tax liabilities for the calendar years 1985, 1986, 1990, 1993 and 1994.
- 22) On or about September 30, 1996, defendants ZUERCHER and VIRDONE caused \$13,500 of income received by defendant ZUERCHER from O.B. Inc. to be falsely reported as a loan to defendant ZUERCHER's son on the 1995 O.B. Inc., Form 1120, U.S. Corporation Income Tax Return
- 23) In or about January 1997, defendants ZUERCHER and VIRDONE caused \$18,000 of income received by

defendant ZUERCHER from O.B. Inc. to be falsely reported as a salary paid to defendant ZUERCHER's son on a 1996 Form W-2 for O.B. Inc. that was filed with the IRS.

- 24) On or about March 21, 1997, defendants ZUERCHER and VIRDONE caused \$13,000 of income received by defendant ZUERCHER from O.B. Inc. to be falsely reported as a loan to defendant ZUERCHER's son on the 1996 O.B. Inc., Form 1120, U.S. Corporation Income Tax Return.
- 25) On or about April 15, 1997, defendants ZUERCHER and VIRDONE caused to be prepared and filed a 1996 U.S. Individual Income Tax Return, Form 1040, for defendant ZUERCHER'S son that falsely and fraudulently reported \$18,000 of income received by defendant ZUERCHER from O.B. Inc. as wages received by defendant ZUERCHER's son.
- 26) On or about April 15, 1997, defendants ZUERCHER and VIRDONE caused to be prepared and filed a false and fraudulent 1996 U.S. Individual Income Tax Return, Form 1040, for defendant ZUERCHER, which omitted \$31,000 of income received by defendant ZUERCHER from O.B. Inc.

- 27) In or about January 1998, defendants ZUERCHER and VIRDONE caused \$24,000 of income received by defendant ZUERCHER from O.B. Inc. to be falsely reported as a salary paid to defendant ZUERCHER's son on a 1997 Form W-2 for O.B. Inc. that was filed with the IRS.
- 28) On or about April 4, 1998, defendants ZUERCHER and VIRDONE caused to be prepared and filed a 1997 U.S. Individual Income Tax Return, Form 1040, for defendant ZUERCHER'S son that falsely and fraudulently reported \$24,000 of income received by defendant ZUERCHER from O.B. Inc. as wages received by defendant ZUERCHER's son.
- 29) On or about October 19, 1998, defendants ZUERCHER and VIRDONE caused to be prepared and filed a false and fraudulent 1997 U.S. Individual Income Tax Return, Form 1040, for defendant ZUERCHER, which omitted \$24,000 of income received by defendant ZUERCHER from O.B. Inc.
- 30) In or about January 1999, defendants ZUERCHER and VIRDONE caused \$24,000 of income received by defendant ZUERCHER from O.B. Inc. to be falsely reported as a salary paid to defendant ZUERCHER's

son on a 1998 Form W-2 for O.B. Inc. that was filed with the IRS.

- 31) On or about April 15, 1999, defendants ZUERCHER and VIRDONE caused to be prepared and filed a 1998 U.S. Individual Income Tax Return, Form 1040, for defendant ZUERCHER'S son that falsely and fraudulently reported \$24,000 of income received by defendant ZUERCHER from O.B. Inc. as wages received by defendant ZUERCHER's son.
- 32) On or about October 18, 1999, defendants ZUERCHER and VIRDONE caused to be prepared and filed a false and fraudulent 1998 U.S. Individual Income Tax Return, Form 1040, for defendant ZUERCHER, which omitted \$24,000 of income received by defendant ZUERCHER from O.B. Inc.
- 33) In or about January 2000, defendants ZUERCHER and VIRDONE caused \$24,000 of income received by defendant ZUERCHER from O.B. Inc. to be falsely reported as a salary paid to defendant ZUERCHER's son on a 1999 Form W-2 for O.B. Inc. that was filed with the IRS.
- 34) On or about March 9, 2000, defendants ZUERCHER and VIRDONE caused to be prepared and filed a 1999 U.S. Individual Income Tax Return, Form 1040, for

defendant ZUERCHER'S son that falsely and fraudulently reported \$24,000 of income received by defendant ZUERCHER from O.B. Inc. as wages received by defendant ZUERCHER's son.

35) On or about April 15, 2000, defendants ZUERCHER and VIRDONE caused to be prepared and filed a false and fraudulent 1999 U.S. Individual Income Tax Return, Form 1040, for defendant ZUERCHER, which omitted \$24,000 of income received by defendant ZUERCHER from O.B. Inc.

All in violation of Title 26, United States Code, Section 7201 and Title 18, United States Code, Section 2(a).

COUNT 3  
(26 U.S.C. § 7206(1))

The Grand Jury further charges:

On or about February 10, 1995, in the District of Hawaii, defendant VICTOR H. ZUERCHER, JR., a resident of Honolulu, Hawaii, did willfully make and subscribe an IRS Form 433-A, Collection Information Statement for Individuals, which was verified by a written declaration that it was made under the penalties of perjury and was filed with the Internal Revenue Service, which said Form 433-A, Collection Information Statement for Individuals, the defendant did not believe to be true and correct as to every material matter in that the said Form 433-A,

Collection Information Statement for Individuals, failed to disclose that the defendant exercised complete dominion and control over the income, assets and operation of a nominee corporation, known as O.B. Inc., from which the defendant derived income. The defendant then and there well knew and believed that he was in total dominion and control of O.B. Inc., which was generating income that was available to pay his back taxes.

All in violation of Title 26, United States Code, Section 7206(1).

COUNT 4  
(26 U.S.C. §7206(1))

The Grand Jury further charges:

On or about September 24, 1996, in the District of Hawaii, defendant VICTOR H. ZUERCHER, JR., a resident of Honolulu, Hawaii, did willfully make and subscribe an IRS Form 433, Statement of Financial Condition and Other Information, which was verified by a written declaration that it was made under the penalties of perjury and was filed with the Internal Revenue Service, which said Form 433, Statement of Financial Condition and Other Information, the defendant did not believe to be true and correct as to every material matter in that the said Form 433, Statement of Financial Condition and Other Information, failed to disclose that the defendant exercised complete dominion and control over the income, assets and operation of a nominee

corporation, known as O.B. Inc., from which the defendant derived income. The defendant then and there well knew and believed that he was in total dominion and control of O.B. Inc., which was generating income that was available to pay his back taxes.

All in violation of Title 26, United States Code, Section 7206(1).

COUNT 5  
(26 U.S.C. § 7206(1))

The Grand Jury further charges:

On or about October 19, 1998, in the District of Hawaii, defendant VICTOR H. ZUERCHER, JR. did willfully make and subscribe a Form 1040, U.S. Individual Income Tax Return for the calendar year 1997, which was false as to a material matter and verified by a written declaration that it was made under the penalties of perjury and was filed with the Internal Revenue Service, which said income tax return he did not believe to be true and correct as to every material matter in that reported total income was substantially understated.

All in violation of Title 26, United States Code, Section 7206(1).

COUNT 6  
(26 U.S.C. § 7206(2))

The Grand Jury further charges:

On or about October 19, 1998, in the District of Hawaii, defendant PETER PAUL VIRDONE, did willfully aid and assist in and procure, counsel and advise the preparation and presentation to the Internal Revenue Service of a Form 1040, U.S. Individual Income Tax Return for defendant Victor H. Zuercher, Jr. for the calendar year 1997, which was false as to a material matter and verified by a written declaration that it was made under the penalties of perjury and filed with the Internal Revenue Service, which said income tax return he did not believe to be true and correct as to every material matter in that reported total income was substantially understated.

All in violation of Title 26, United States Code, Section 7206(2) .

COUNT 7  
(26 U.S.C. § 7206(1))

The Grand Jury further charges:

On or about October 18, 1999, in the District of Hawaii, defendant VICTOR H. ZUERCHER, JR. did willfully make and subscribe a Form 1040, U.S. Individual Income Tax Return for the calendar year 1998, which was false as to a material matter and verified by a written declaration that it was made under the penalties of perjury and was filed with the Internal Revenue

Service, which said income tax return he did not believe to be true and correct as to every material matter in that reported total income was substantially understated.

All in violation of Title 26, United States Code, Section 7206(1) .

COUNT 8  
(26 U.S.C. § 7206(2))

The Grand Jury further charges:

On or about October 18, 1999, in the District of Hawaii, defendant PETER PAUL VIRDONE, did willfully aid and assist in and procure, counsel and advise the preparation and presentation to the Internal Revenue Service of a Form 1040, U.S. Individual Income Tax Return for defendant Victor H. Zuercher, Jr. for the calendar year 1998, which was false as to a material matter and verified by a written declaration that it was made under the penalties of perjury and filed with the Internal Revenue Service, which said income tax return he did not believe to be true and correct as to every material matter in that reported total income was substantially understated.

All in violation of Title 26, United States Code, Section 7206(2) .

COUNT 9  
(26 U.S.C. § 7206(1))

The Grand Jury further charges:

On or about April 15, 2000, in the District of Hawaii and elsewhere, defendant VICTOR H. ZUERCHER, JR. did willfully

make and subscribe a Form 1040, U.S. Individual Income Tax Return for the calendar year 1999, which was false as to a material matter and verified by a written declaration that it was made under the penalties of perjury and was filed with the Internal Revenue Service, which said income tax return he did not believe to be true and correct as to every material matter in that reported total income was substantially understated.

All in violation of Title 26, United States Code, Section 7206(1).

COUNT 10  
(26 U.S.C. § 7206(2))

The Grand Jury further charges:

On or about April 15, 2000, in the District of Hawaii, defendant PETER PAUL VIRDONE, did willfully aid and assist in and procure, counsel and advise the preparation and presentation to the Internal Revenue Service of a Form 1040, U.S. Individual Income Tax Return for defendant Victor H. Zuercher, Jr. for the calendar year 1999, which was false as to a material matter and verified by a written declaration that it was made under the penalties of perjury and filed with the Internal Revenue Service, which said income tax return he did not believe to be true and

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correct as to every material matter in that reported total income was substantially understated.

All in violation of Title 26, United States Code,  
Section 7206 (2).

DATED: May 15, 2003, at Honolulu, Hawaii.

A TRUE BILL

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FOREPERSON, GRAND JURY

EDWARD H. KUBO, JR.  
United States Attorney  
District of Hawaii

*E.H.*  
EDWARD E. GROVES  
Trial Attorney  
U.S Department of Justice  
Tax Division

*G.M.D.*  
KEVIN M. DOWNING  
Trial Attorney  
U.S. Department of Justice  
Tax Division

USA v. Victor H. Zuercher, Jr. & Peter Paul Virdone;  
Cr. No. 01-0034 DAE; "Superseding Indictment"